



COLORADO

Office of Behavioral Health

Department of Human Services

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Congress of the United States
House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

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Dear Chairman Walden, Representative Pallone, Representative Burgess, Representative Greene, and Representative DeGette,

The Colorado Department of Human Services, Office of Behavioral Health has prepared a response to the letter dated November 17, 2017 from the US House of Representatives Committee on Energy and Commerce related to the practices of sober living homes. Please find our responses to your questions below.

1. How many drug treatment facilities are within the state of Colorado? Please provide a description of what type of facility is considered a drug treatment facility in your state.

a. Please provide a breakdown between inpatient treatment facilities and outpatient treatment facilities.

A facility is considered to be a substance use disorder treatment facility if it provides substance use disorder treatment services. Colorado has both residential (inpatient) treatment sites and outpatient treatment sites. A residential treatment site provides services at the same location in which the service recipients eat and sleep, and has overnight professional staff on duty in case of emergencies. An outpatient site conducts its treatment services at a specific location that is not staffed overnight, and service participants leave to sleep and eat in another location or at home.

Colorado has 87 licensed residential treatment sites, of which 18 are located within correctional facilities or are contracted by criminal justice agencies to provide residential treatment.

Colorado has approximately 625 licensed outpatient treatment sites, which are operated by approximately 300 licensed agencies. Numbers are approximate due to new license applications and license modification applications that are received on an ongoing basis. Colorado tracks its treatment facilities by the ASAM level of care they provide, so that one agency providing more than one level of care may be counted twice in some instances.

2. Does your state require that drug treatment facilities be licensed or certified?

a. What licensure, certification, standards, and requirements are applicable?

Substance use disorder treatment providers are not required to be licensed by the State in order to operate, however state approval is required in order for programs to receive public funding to provide treatment. Additionally, DUI and criminal justice-referred populations are required to be treated in programs licensed to provide DUI and criminal-justice related substance use disorder services.

b. By whom or what entity must they be licensed or certified?



Substance use disorder programs are licensed by the Colorado Department of Human Services, Office of Behavioral Health (OBH).

- c. Are treatment facilities within your state required to be re-licensed or re-certified? If so, how often are they required to seek re-licensure or re-certification?**

Treatment licenses are time limited, with renewal required every two years.

- d. How many, or what percentage, of the facilities within your state are licensed or certified, and how many are not?**

Colorado does not regulate or monitor any substance use disorder programs that are not licensed by OBH, hence the number of unlicensed agencies is unknown.

- 3. Does your state require that physicians or other providers who work within these drug treatment facilities be licensed or certified?**

- a. If so, what licenses or certifications must they hold?**

Physicians and other healthcare providers shall currently possess and maintain licenses to practice medicine/nursing in compliance with the credentialing requirements of their own profession in Colorado as provided by Article 36, Title 12, C.R.S. Counseling staff must be made up of a minimum of 50% certified addiction counselors (state certification for addiction counseling), with the remaining 25% being counselors in training and 25% other mental health licensees.

- b. Does your state require drug treatment facilities to seek accreditation?**

Opioid Medication Assisted Treatment facilities must be accredited; other licensed treatment providers are not required to seek accreditation.

- 4. Outside of the licensure and certification process, do you conduct additional oversight and regulation of drug treatment facilities? Please explain.**

An agency that is contracted with the State to provide services using public funds receives annual contract monitoring visits from the managed service organization that oversees and pays for its services. The focus of these visits is on quality of care and on contract compliance.

- 5. Does your state conduct inspections or rely on third party inspections of drug treatment facilities?**

- a. If so, how often are these facilities inspected?**

The State conducts inspections of licensed substance use disorder treatment facilities a minimum of once every two years for licensing renewal. The state may also conduct inspections in response to reported complaints or critical incidents. As stated above, agencies contracted to deliver services through the managed service organizations also receive annual inspections from these contracting entities.

- b. Of the treatment facilities that your state has inspected, how often are there citations or adverse findings?**

Adverse findings or citations resulting in an agency's license being put on probationary status occur approximately 20% of the time.

- c. In the event that there is a citation or adverse finding, what happens? Does the facility receive some form of a sanction, a fine, a more thorough review, a corrective action plan, a referral, loss of licensure or certification, or being forced to shut down, etc.?**



With an adverse finding, an agency receives a plan of correction in addition to increased on-site monitoring. The agency is required to report on its progress regarding the plan of correction, and may be considered to be on probation for a minimum of 90 days. If progress toward compliance is made but additional time is needed in order for the agency to come into full compliance with OBH regulations, an additional 90-day probationary license is given. If at the end of two 90-day probationary periods the agency is still not in sufficient compliance to warrant the issuance of a license, that agency's license is moved to be revoked through an administrative law hearing, or if the license has expired, the State moves to deny the renewal of the license.

In either case, the treatment agency must be given additional time to answer to the charges (which delineate each area of non-compliance and what the agency has done to attempt to remedy the problem), and the case is set for an administrative law hearing, usually a minimum of 90 days from the filing of the notice of charges. During that 90 days, unless the State can prove that public safety and welfare are threatened by the agency's continued operation, the agency is allowed to continue to operate. If the State can prove harm to the public as a result of the agency's actions, it may seek a summary suspension of the license while the administrative law case is pending.

6. How many staff within your department are dedicated to overseeing and regulating drug treatment facilities?

OBH has 14 staff dedicated to overseeing and regulating drug treatment facilities. Four of these staff are administrative, and 10 conduct the actual site visits and licensing activities.

7. Has your department examined the problem of patient brokering? If so, please discuss your findings or observations.

- a. Has your state ever received reports or complaints of a treatment facility or sober living home in your state that is suspected of participating in patient brokering? If so, how are these complaints handled?
- b. Has your department taken any steps to combat patient brokers and the treatment facilities or sober living homes that are utilizing patient brokers? If so, please describe this work.
- c. Has your state ever conducted an inspection or review of a facility in your state that was found to be giving or receiving financial kick-backs with an individual, sober living home, another treatment facility, or a laboratory?
 - i. If so, how many facilities have been found to be participating in a kick-back scheme?
 - ii. What role does your department play if there is such a finding?

OBH has received a few complaints about the practice of potential patient brokering, but does not have regulatory authority to address the problem specifically, as the Office does not regulate sober living facilities. OBH's purview is currently limited to activities that take place within the treatment setting and whether or not those activities conform to the requirements laid out in our treatment rules. Colorado does not regulate the price setting, fee collection, or business models of the treatment providers who receive substance use disorder licenses. There is currently no rule or statute in Colorado that would make this practice illegal or against regulation.

OBH has not participated in any investigation into possible kick-back schemes or patient brokering.

8. Has your state ever received reports or complaints of a treatment facility or sober living home in your state that is suspected of providing drugs to patients upon release so that the patient will relapse and have to re-enter treatment?



OBH has not received this particular complaint.

9. **Does your state have any laws and regulations to combat patient brokering? If so, what are they?**
- Does the enforcement of any of those laws or regulations fall within your department jurisdiction?**
 - Has your department collaborated with any federal or state partners to combat this issue? If so, please elaborate.**

Colorado does not have any laws or regulations that address patient brokering.

10. **Have any drug treatment facilities or sober living homes within your state been shut down because they were found to be participating in patient brokering? If so, how many and when?**

Colorado has not shut down any drug treatment or sober living homes due to participation in patient brokering. Sober living homes are not regulated in Colorado and OBH has no awareness of any other state agency shutting down such facilities.

11. **Does your department regulate call centers that refer individuals seeking treatment to treatment centers? If so, please explain. If not, who in your state is responsible for regulating the call centers?**

OBH does not regulate call centers that refer individuals to treatment. OBH does fund and provide direct contractual oversight of a crisis hotline and peer warm-line, which provides clinical and peer services for people in a behavioral health crisis. This crisis line also connects people in crisis with services that will help them to address the crisis. The crisis line may make referrals to treatment programs, however most often the response is to direct a person seeking help for substance use disorder to use the state funded online treatment directory to find appropriate behavioral health services. The state treatment directory only includes licensed facilities, so that does not include sober living facilities.

- Are there requirements for those who work at these call centers to have certification or training to ensure that they are qualified to help individuals who are seeking assistance in deciding which treatment facility is most appropriate for them?**

All of the clinical and peer employees that take calls on the crisis line are trained on the online system, but there is no certification or state standard training on helping an individual seeking assistance in identifying a treatment facility specifically.

12. **Does your department oversee or regulate sober living homes?**

OBH does not oversee or regulate sober living homes.

- If not, who in your state is responsible for regulating sober living homes?**

There is no state agency in Colorado that regulates sober living homes, as they are not considered to be providers of treatment.

- Does your state coordinate with them given the relationship that they may have, whether it's a formal or informal relationship, with treatment facilities?**

Our Department does not coordinate with sober living facilities, with the noted exception of Oxford House, International, which receives state funding through one of our Department's managed service organizations. Treatment providers may refer clients to Oxford House as a



transition from formal treatment services.

- 13. In bipartisan staff discussions with various stakeholders, we have learned that some state and local courts require certain drug offenders to reside in a sober living home as a condition of their release. Are you aware of any requirements, similar to this, within your state?**

Practices vary considerably from jurisdiction to jurisdiction within Colorado; OBH is not aware of this as a widespread practice.

- a. If so, is there a requirement that these drug offenders reside in accredited sober living homes?**

Colorado is aware that a number of sober living providers in Colorado are seeking to adopt the National Alliance of Recovery Residences standards in order to create voluntary accreditation. It is unclear when this will begin and what role, if any, our state agency will play.

